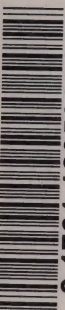


CA20N

HO

-7024

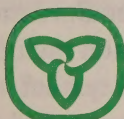
Rent Increases above the Guideline



3 1761 12059301 7



RENT CONTROL



Ontario

Ministry
of
Housing

RENT INCREASES ABOVE THE GUIDELINE

A landlord can make an application for a rent increase above guideline for the following reasons:

1. Extraordinary Operating Cost increases for heat, hydro, water, and property taxes.
2. Capital Expenditures (ie. major repairs and improvements)
3. New or Additional Services.

The most that maximum rent can be raised in one year is the guideline plus 3%.

To apply for an increase above the guideline, a landlord must file a Form 6 Application for a Rent Increase Above Guideline, a Form 8 Cost Statement, and in some cases, a Form 9 for Tenant Consent. These forms, and instructions for filling them out, are available from the Rent Control office in your area.

With the application the landlord must submit all supporting documentation including invoices and evidence of payment. The landlord must also submit proof of certain operating costs for the previous two accounting periods. If these materials are not provided, the Rent Officer will not proceed with the application.

Decisions On Applications For Increases Above The Guideline:

Adjusting the Previous Maximum Rent:

While considering the landlord's request, the rent officer must also consider whether the previous maximum rent should be reduced. This can happen if the tenants show that the building is not adequately maintained or that a service or facility has been reduced or withdrawn.

1. Inadequate maintenance: To make a finding on inadequate maintenance, the rent officer may consider a period of up to two years before the application was filed; but only if the condition persists on the date the application was made. The amount of the rent reduction will depend on three things:

- how severe the problem is;
- how long the maintenance has been inadequate; and
- how the tenants are affected.

2. A service or facility is reduced or withdrawn: For example, the superintendent's hours are reduced or the laundry facilities are taken away. The rent officer will consider a period of up to 6 years before the application was filed, or back to the most recent rent setting order, whichever period is shorter.

Determining the Increases:

After the previous maximum rent has been adjusted (where necessary) the rent officer will determine what increase above the guideline has been justified.

The rent officer will consider three factors:

- 1) the guideline;
- 2) extraordinary operating cost increases and decreases for heat, hydro, water and/or property taxes;
- 3) capital expenditures undertaken by the landlord

It is possible that an increase less than the guideline may be awarded, or even that a decrease be ordered. Again, an increase would never be higher than the guideline plus 3%.

Future requirements if an increase above the guideline is awarded:

1. Landlords who receive an increase above guideline must **always** include 2 years of operating cost information on future notices of rent increase given to tenants. If the landlord fails to provide these costs, the notice will not be valid.

2. If a landlord is awarded an increase above the guideline, the accounting period used for the application, for example, April to March each year, **must** be used for the purposes of future notices of rent increase and for future applications for increases above the guideline. These accounting periods must always be used for that building even if a new landlord purchases the building.

Extraordinary Operating Costs

Operating Costs are the costs of running a building.

The average changes in the operating costs of a typical residential rental building in Ontario are reflected in the annual guideline. However, if a landlord experiences an 'extraordinary' increase in certain operating costs he or she can make an application for a rent increase above the guideline.

The operating cost categories considered for increases and decreases in rent are heat, hydro, water, and property taxes.

What is extraordinary?

In order to be considered extraordinary, the cost increases must pass certain tests:

- 1) The landlord must have experienced an actual cost increase.

2) The percentage increase must be at least 50% more than the average percentage increase for that cost category.

When extraordinary operating costs are considered, all increases and decreases will be taken into account for all four categories. Decreases in some categories may offset increases in others.

EXAMPLE:

The extraordinary operating cost increase allowed for Hydro is \$75 per year

The extraordinary operating cost decrease calculated for water is \$25 per year

Offsetting: $\$75 - \$25 = \$50$

The extraordinary operating cost allowance would be \$50 per year.

The landlord is required to file proof of all costs for a two year period. The rent officer will consider the change in operating costs from one year (reference year) to the next (base year). The base year is the landlord's 12 month accounting period most recently completed at least 90 days before the date of the first increase applied for. The reference year is the 12 months prior to the base year.

EXAMPLE

Landlord's cost for hydro:

1991 \$500 (reference year)

1992 \$600 (base year)

The difference is \$100

\$100 is a 20% increase above \$500

Test #1 (increase must be at least 50% greater than average)

Operating cost category for hydro in 1993 shows an average increase of 11.32%

50% greater than 11.32% is 16.98%

Since 20% is greater than 16.98%, the test is met.

Test #2 (there must be an actual increase in costs)

This test is met since the landlord's costs have increased by \$100

To determine the Extraordinary Operating Cost Allowance, the Rent Officer subtracts the increase that was reflected in the guideline from the actual increase experienced by the landlord:

The actual increase (\$100)

Less the increase reflected in the guideline
($\$500 \times 11.32\% = \56.60)

The allowance would be \$43.40 (\$100 - \$56.60)

This is the extraordinary operating cost allowance for the building, for the year. Although the allowance is calculated by comparing the costs of 1992 with the costs of 1991, the rent increase won't take effect until 1993.

Capital Expenditures

Capital expenditures are major renovations, repairs, replacements and new additions to a building or a tenant's unit. The expected life of any capital expenditure must be at least 5 years. It may include expenditures for leased assets, in certain circumstances.

Every year landlords can increase rents by the guideline amount without an application. The guideline already includes 2% for capital expenditures.

A landlord who wants more than the guideline to recover major expenditures can make an application.

If a landlord applies for an increase based on capital expenditures he or she must also justify the 2% that would have been allowed in the guideline for capital expenditures.

Therefore, in order to receive the highest possible increase (the guideline, including the 2% for capital, plus 3% above the guideline) the landlord must justify a total of 5% for any one year.

Example:

guideline	4.9%
reduced by 2% (capital portion)	<u>-2.0%</u> =2.9%
justified capital expenditure allowance	<u>+5.0%</u>
justified rent increase	=7.9%

The work must be finished during the 12 month period before the last filing date for the application. The last filing date is 90 days before the increase is to take effect.

Capital Expenditures:

Eligible capital expenditures

Capital expenditures will be considered for rent increases if they:

- are required to protect or restore the building; or
- are required to meet municipal or provincial standards for property, health and safety or to protect the environment; or

- are necessary to continue to provide plumbing, heating, mechanical, electrical, ventilation or air conditioning systems; or
- provide access for persons with disabilities; or
- increase energy or water conservation

These expenditures will not be considered eligible if they became necessary as a result of neglect, or if an item was replaced which did not need replacing.

For eligible capital expenditures, the guideline will be reduced by 2% for all units in the residential complex, even if the expenditures only affect part of the residential complex.

Capital expenditures which require tenant consent

If the tenant agrees, the landlord can make capital improvements to a tenant's unit without having to qualify as an eligible capital expenditure.

Tenant consent capital expenditures are expenditures which are done in a tenant's unit, balcony, or other area for the tenant's personal use.

Example:

Would qualify:

- a dishwasher that was not there before
- construction of a new parking spot

Would not qualify.

- new carpet in the building hallway

Consent

The tenant must be informed in writing of the details of the capital expenditure upon which the landlord will base the application.

The tenant must give written consent (Form 9: Tenant Consent) to the application.

If the landlord gets consent from a tenant and that tenant moves out, the landlord is not required to get consent from the new tenant.

What documentation must the landlord provide?

The landlord is required to provide proof of all costs which are being claimed and the following material must also be filed to support the application:

- copies of any invoices
- evidence of amounts paid by the landlord
- if claiming leased assets, copies of leases
- information on any insurance proceeds or government grants or assistance related to capital expenditures

- information on any amounts received from salvage, resale or trade-in of anything related to the expenditure
- if consent was required, a completed Form 9: Tenant Consent

How is the capital allowance calculated?

The allowance for the capital expenditure is the total cost of the expenditure spread over the useful life of the item, including interest. In order to determine this, the rent officer must:

1. Determine cost of capital expenditures, based on:

- purchase price
- installation, renovation and construction costs
- value of landlord's own labour (calculated taking into account the landlord's experience and skill in the type of work done).

From the total of these costs is deducted the amount of any assistance or grants from any government programs, or insurance, salvage, resale or trade-in proceeds.

2. Determine the useful life of the capital expenditure:

- the useful life is the number of years the capital expenditure is expected to last before the work has to be done again.
- the table setting out the useful life of capital expenditures is set out by regulation under the *Rent Control Act*.

Example: A single ply roof has a useful life of 20 years.

3. Include interest:

- use the 5 yr guaranteed investment certificate (GIC) at time of application (not the cost of borrowing).

If an item on a current application had been recognized in a prior order with a first effective date on or after August 1, 1985, the Rent Officer will reduce the allowance for the item by the allowance for the item on the previous order.

If an item on a current application had been recognized in a prior order under the *Rent Control Act*, and its useful life has not expired, the Rent Officer will reduce the previous maximum rent capital component that had been set out in the previous order.

Example: landlord claims capital expenditures due to garage repairs. There had been an allowance for garage repairs in 1986. The annual amount allowed for this item in the 1986 Order was \$1,152.40.

cost claimed	\$25,000.00
interest rate allowed	6%
amortization period allowed	10 yrs

annual amortized amount minus	\$3,319.53 -
amount in 1986	\$1,152.40
amount allowed on this order	\$2,167.13

This is the allowance for the building, for the year.

What are capital components?

A portion of the rent increase due to a capital expenditure is accounted separately and is called the capital component. Capital components are the total rent increase granted due to capital expenditures in excess of the 2% that the landlord would have received as part of the guideline if no application had been made.

Capital components are a separate part of the maximum rent and are not increased by annual guidelines.

EXAMPLE:

Maximum rent = \$550: base rent \$500 + capital component \$50

Guideline = 4.9%

4.9% of \$500 = \$24.50

New maximum rent is: \$500 + \$24.50 + \$50 = \$574.50

Once the useful life of a capital expenditure has ended, its capital component will be removed from the rent.

What is capital carry forward?

If the landlord has justified a rent increase that is in excess of the guideline plus 3%, the excess due to capital expenditures can be carried forward an additional 2 years. In each of the 'carry forward' years, the guideline is still subject to the 2% reduction.

If the carry forward amount is less than 2%, it will not be considered in the following year's rent increase, unless the landlord has justified a further allowance which in total with the carry forward is greater than 2%.

EXAMPLE:

Guideline = 4.9%

Limit on rent increase above guideline = 3%

Rent increase cannot be more than $4.9\% + 3\% = 7.9\%$

Justified above guideline increase = 10.2%

$10.2\% - 7.9\% = 2.3\%$

Since there is an excess amount of 2.3% , and that excess is greater than 2% , the excess can be carried forward to the following year's rent increase. As a result of this carry forward, the increase for the next year would be guideline + $.3\%$.

Transitional Capital Expenditures:

Capital expenditures completed between January 1, 1990, and June 6, 1991 may be used to justify a rent increase above guideline, but special rules apply:

1. The work must have been **completed** on or after January 1, 1990, and before June 6, 1991.
2. The application must be made by **February 10, 1993**.
3. The work could not have been considered in a previous application (under Rent Review).
4. The capital expenditure does not have to qualify as an "eligible capital expenditure" under the *Rent Control Act*. The rules of the previous Rent Review legislation will be used to determine whether the capital expenditure is eligible.

The following rules do apply:

1. A rent increase above guideline will **not** be allowed if the capital expenditure was necessary because of neglect.
2. The most rents are allowed to increase under Rent Control is the guideline plus 3%.
3. When an application is made for transitional capital expenditures, the guideline will be reduced by 2%.
4. If the justified rent increase is more than the guideline plus 3%, the remaining amount can be carried forward for two years.
5. A portion of the capital expenditure allowance will be added to the rent as a capital component. It will be kept as a separate part of the maximum rent, and not compounded each year by the guideline increase; and it will be removed from the rent when the useful life of the capital expenditure has ended.
6. The rent increase cannot be retroactive to before the first effective rent increase date stated in the application. The landlord must apply at least 90 days before the rent increase will come into effect.

Once it has been determined that the capital expenditure meets the criteria for a transitional capital expenditure, the capital expenditure allowance is calculated the same way as other capital expenditures under Rent Control.

EXAMPLE:

A landlord applies September 1, 1992 for a rent increase above guideline to take effect January 1, 1993 for hallway carpeting throughout the building. The work was completed by May 1, 1991. The work was never considered on a previous application.

The landlord would not have to meet Rent Control capital expenditure eligibility requirements. In this case, the landlord would not have to prove that the carpeting needed replacing. But, the landlord would have to show that it was not replaced because of neglect.

The capital expenditure allowance would be calculated in the same way as other capital expenditures under the *Rent Control Act*, and the resulting capital component would be removed from the rent when the useful life of the carpeting expired.

New or Additional Services

Landlords can apply for a rent increase above the guideline for new or additional services to a tenant's unit with the tenant's consent.

The new or additional service must be specific to the tenant's unit or other area for the tenant's own exclusive use.

EXAMPLE: The landlord adds a dishwasher to a unit

The landlord must inform the tenant of the details of the application, and the tenant must consent in writing on form 9, which is available from the Rent Control Office in your area.

Calculating the Rent Increase

When adding services, the landlord may have two different types of costs:

1. Any capital expenditures incurred in the purchasing and installing of the new service.
2. Increased operating costs resulting from the new service, for example, the increased hydro cost for running the air conditioner.

The amount allowed will be based on the operating costs that the landlord will experience for the first 12 months after introduction of the new service. This may have to be based on a projection.

These operating costs do not have to meet extraordinary operating cost tests.

EXAMPLE: A landlord adds a dishwasher to a unit with the tenant's consent

1) Total possible rent increase allowable:

Maximum rent = \$500 per month.

Guideline = 4.9%

Limit on rent increase above guideline = 3%

Rent increase cannot be more than $4.9\% + 3\%$
 $= 7.9\%$

7.9% of \$500 = \$39.50

Rent increase cannot be more than \$39.50 per month

2) Addition of guideline - reduce guideline by 2% for capital expenditures:

$4.9\% - 2\% = 2.9\%$

2.9% of \$500 = \$14.50

3) Amount allowed for increased hydro cost resulting from the dishwasher: \$6 per month.

4) Amount allowed for the capital expenditure for buying and installing the dishwasher: \$12 per month.

5) Justified rent increase:

$\$14.50 + \$6 + \$12 = \32.50 per month

This increase is under the limit of \$39.50, so the entire \$32.50 will be passed through into the rent.

6) New maximum rent:

$$\$500.00 + \$32.50 = \$532.50$$

Advance Determinations

A landlord can apply for an advance determination before doing a capital expenditure or introducing a new service (using Form 7: Application for Advance Determination).

In this way, a landlord can find out:

- whether a proposed expenditure is eligible
- what amount would be allowed if the landlord applies for an increase above the guideline

The Rent Officer will also determine:

- whether the tenant has consented to the expenditure (where tenant consent is necessary)

The Rent Officer will not order a rent increase. The landlord must file a separate application when the work is complete. If the costs exceed the projected costs by more than 10%, the advance determination will be disregarded.

RENT CONTROL OFFICES

EASTERN ONTARIO REGION

KINGSTON OFFICE

265 Ontario Street
1st Floor
Kingston, Ontario
K7K 2X5
Tel. # (613) 548-6770
Toll-free: Ask operator
for Zenith 9-6000

OSHAWA OFFICE

40 King St. West, #700
Oshawa, Ontario
L1H 1A4
Tel. # (416) 723-8135
Toll-free: Ask operator
for Zenith 9-6000

OTTAWA OFFICE

10 Rideau Street, 3rd Floor
Ottawa, Ontario
K1N 9J1
Tel. # (613) 230-5114
Toll-free: Ask operator
for Zenith 9-6000

PETERBOROUGH OFFICE

139 George Street North
Peterborough, Ontario
K9J 3G6
Tel. # (705) 743-9511
Toll-free: Ask operator
for Zenith 9-6000

CENTRAL ONTARIO REGION

ETOBICOKE — CITY OF YORK OFFICE

5464 Dundas Street, West
Suite 200
Etobicoke, Ontario
M9B 1B4
Tel. # (416) 236-2681

MISSISSAUGA OFFICE

4 Robert Speck Parkway
Suite 550
Mississauga, Ontario
L4Z 1S1
Tel. # (416) 270-3280
Toll-free: Ask operator
for Zenith 9-6000

NORTH YORK OFFICE

47 Sheppard Avenue, East
Suite 402
Willowdale, Ontario
M2N 5X5
Tel. # (416) 314-9550
Toll-free: Ask operator
for Zenith 9-6000

SCARBOROUGH — EAST YORK OFFICE

1200 Markham Road
Suite 415
Scarborough, Ontario
M1H 3C3
Tel. # (416) 314-8640

TORONTO CITY OFFICE

56 Wellesley Street, West
8th Floor
Toronto, Ontario
M7A 2J9
Tel. # (416) 326-9800

SOUTHWESTERN ONTARIO REGION

BARRIE OFFICE

14 Worsley Street
6th Floor
Barrie, Ontario
L4M 1M1
Tel. # (705) 737-2111
Toll-free: 1-800-461-2882

HAMILTON OFFICE

25 Main St. West, #620
Hamilton, Ontario
L8P 1H1
Tel. # (416) 528-8701
Toll-free: 1-800-668-9565

KITCHENER OFFICE

30 Duke St. West, #401
Kitchener, Ontario
N2H 3W5
Tel. # (519) 579-5790
Toll-free: 1-800-265-8926

LONDON OFFICE

240 Wharncliffe Road, North
Suite 100
London, Ontario
N6H 4P2
Tel. # (519) 679-7270
Toll-free: 1-800-265-0937

OWEN SOUND OFFICE

1077 Second Avenue, East
Owen Sound, Ontario
N4K 2H8
Tel. # (519) 376-3202
Toll-free: 1-800-265-3737

ST. CATHARINES OFFICE

43 Church Street
Suite 505
St. Catharines, Ontario
L2R 7E1
Tel. # (416) 684-6562
Toll-free: 1-800-263-4937

WINDSOR OFFICE

880 Ouellette Avenue
Suite 302
Windsor, Ontario
N9A 1C7
Tel. # (519) 253-3532
Toll-free: 1-800-265-6924

NORTHERN ONTARIO REGION

NORTH BAY OFFICE

189 Wyld Street
North Bay, Ontario
P1B 1Z2
Tel. # (705) 476-1231
Toll-free: Ask operator
for Zenith 9-6000

SUDBURY OFFICE

128 Larch Street
6th Floor
Sudbury, Ontario
P3E 5J8
Tel. # (705) 675-4373
Toll-free: Ask operator
for Zenith 9-6000

THUNDER BAY OFFICE

540 West Arthur Street
Thunder Bay, Ontario
P7E 5R7
Tel. # (807) 475-1595
Toll-free: Ask operator
for Zenith 9-6000

TIMMINS OFFICE

111 Wilson Avenue
Timmins, Ontario
P4N 2S8
Tel. # (705) 264-9555
Toll-free: Ask operator
for Zenith 9-6000

ISBN 0-7778-0373-9

9/92

Disponible en français

8